



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation on **May 18, 2004**

NOTICE OF ACTION TAKEN -- DOCKET OST-2004-16972

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Joint Application of **CONTINENTAL AIRLINES, INC., and AEROVIAS DE MEXICO, S.A., DE C.V. (AEROMEXICO)**,¹ filed **1/26/04**, and supplemented on **4/8/04**,² for:

Exemption authority for Continental and its affiliate to engage in scheduled foreign air transportation of persons, property, and mail between points in the United States and points within Mexico beyond Continental's authorized Mexican gateway points for transborder services for the purpose of blind-sector code-sharing services operated between the Mexican gateway points and other points within Mexico on flights operated by Aeromexico. Continental also requests authority to integrate this exemption authority with Continental's other existing exemption and certificate authority. The joint applicants request that this exemption authority be granted for a period of two years.

Exemption authority for Aeromexico and its affiliate to engage in scheduled foreign air transportation of persons, property, and mail between points in Mexico and points within the United States beyond Aeromexico's authorized U.S. gateway points for transborder services for the purpose of blind-sector code-sharing services operated between the U.S. gateway points and other points within the United States and Canada on flights operated by Continental; and exemption authority to engage in scheduled foreign air transportation of persons, property, and mail in the following transborder markets: Houston-Aguascalientes, Houston-Leon/Guanajuato, Houston-Chihuahua, Houston-Cozumel, Houston-Guadalajara, Houston-Manzanillo, Houston-Merida, Houston-Morelia, Houston-Mazatlan, Houston-Puerto Vallarta, Houston-San Jose del Cabo, Houston-San Luis Potosi, Houston-Salttillo, Houston-Tampico, Houston-Torreon, Houston-Veracruz, Houston-Villahermosa, Houston-Ixtapa/Zihuatanejo, New York/Newark-Cozumel, and New York/Newark-San Jose del Cabo. The joint applicants request that this exemption authority be granted for a period of one year.³

Statements of authorization for Continental and its affiliate to display Aeromexico's "AM*" designator code on flights operated by Continental (1) within the United States and between the United States and Canada beyond Aeromexico's authorized United States gateways for the carriage of Aeromexico's authorized Mexico-U.S./Canada traffic; and (2) in the following transborder markets: Houston-Acapulco, Houston-Aguascalientes, Houston-Leon/Guanajuato, Houston-Cancun, Houston-Chihuahua, Houston-Cozumel, Houston-Guadalajara, Houston-Manzanillo, Houston-Mexico City, Houston-Merida, Houston-Monterrey, Houston-Morelia, Houston-Mazatlan, Houston-Puerto Vallarta, Houston-San Jose del Cabo, Houston-San Luis Potosi, Houston-Salttillo, Houston-

¹ Specifically, the joint applicants in this application are as follows: Continental and its affiliate ExpressJet Airlines, Inc., d/b/a Continental Express (ExpressJet), and Aeromexico and its affiliate and code-share partner, Aerolitoral, S.A. de C.V. (Aerolitoral). The joint applicants state that flights designated as Continental flights in the instant application will be operated by Continental or by ExpressJet. The joint applicants also state that Aeromexico seeks authority in the instant application on behalf of itself and on behalf of Aerolitoral. However, for reasons set forth in the Remarks below, we are deferring on that portion of the application that involves proposed code-share services with Aerolitoral.

² The supplement contained information that had been redacted from the copy of the code-share agreement that the joint applicants had previously submitted with their application. We would also note that on May 14, 2004, the joint applicants filed a letter in Docket OST-2004-16972 to clarify that they were not requesting exemption authority for Continental to operate code-share flights beyond its Mexican gateways, or for Aeromexico to operate code-share flights beyond its U.S. gateways.

³ Aeromexico already holds underlying authority to provide foreign air transportation services of persons, property, and mail between: Houston-Acapulco, Houston-Cancun, Houston-Mexico City, Houston-Monterrey, New York/Newark-Acapulco, New York/Newark-Cancun, New York/Newark-Mexico City, New York/Newark-Puerto Vallarta (markets that the applicants also propose to serve under this arrangement).

Tampico, Houston-Torreon, Houston-Veracruz, Houston-Villahermosa, Houston-Ixtapa/Zihuatanejo, New York/Newark-Acapulco, New York/Newark-Cancun, New York/Newark-Cozumel, New York/Newark-Mexico City, New York/Newark-Puerto Vallarta, New York/Newark-San Jose del Cabo. The joint applicants request that the statements of authorization be granted for an indefinite period.

Statements of authorization for Aeromexico and its affiliate to display Continental's "CO*" designator code on flights operated by Aeromexico (1) within Mexico beyond Continental's authorized Mexican gateways for the carriage of Continental's authorized U.S.-Mexico traffic; and (2) in the following transborder markets: Houston-Mexico City and Houston-Monterrey. The joint applicants also request special authorization pursuant to Part 216 of the Department's regulations for Aeromexico and its affiliate to the extent necessary for Aeromexico/Aerolitoral to commingle Mexico-Canada traffic not in foreign air transportation on the same services that carry U.S.-Mexico traffic that is in foreign air transportation. The joint applicants request that the Part 212 statements of authorization and Part 216 special authorizations be granted for an indefinite period.

The code-share partners provide a listing of specific code-share routes that they intend, initially, to serve under this arrangement (see attachments).

Responsive Pleadings:

The City of Houston and the Greater Houston Partnership filed an answer in support of the application. No other responses were received.

Applicant reps: **R. Bruce Keiner, Jr. (CO) (202) 624-2615 and William C. Evans (AM) (202) 861-6459**
DOT Analyst: **Linda L. Lundell (202) 366-2336**

DISPOSITION⁴

1. We grant exemption authority to Continental and ExpressJet, to the extent necessary, to provide scheduled foreign air transportation of persons, property, and mail between points in the United States and points within Mexico beyond Continental/ExpressJet's authorized Mexican gateway points for transborder services, for the purpose of blind-sector code-sharing services operated between the Mexican gateway points and other points within Mexico on services operated by Aeromexico, and authority to integrate this exemption authority with Continental/ExpressJet's current certificate and exemption authority;
2. We grant exemption authority to Aeromexico, to the extent necessary, to provide scheduled foreign air transportation of persons, property, and mail between points in Mexico and points in the United States beyond Aeromexico's authorized U.S. gateway points for transborder services, for the purpose of blind-sector code-sharing services operated between the U.S. gateway points and other points within the United States and Canada on services operated by Continental/ExpressJet;
3. We grant to Continental and ExpressJet statements of authorization under Part 212 of the Department's regulations to display the airline designator code of Aeromexico, on all flights operated by Continental/ExpressJet within the United States beyond Aeromexico's authorized United States gateways for the carriage of Aeromexico's authorized Mexico-U.S. traffic;
4. We grant to Aeromexico, a statement of authorization under Part 212 of the Department's regulations to display the airline designator code of Continental/ExpressJet on all flights operated by Aeromexico within Mexico beyond Continental/ExpressJet's authorized Mexican gateways for the carriage of Continental/ExpressJet's authorized U.S.-Mexico traffic;
5. We grant to Aeromexico a statement of authorization under Part 212 of the Department's regulations to display the airline code of Continental/ExpressJet on all flights operated by Aeromexico in the Houston-Mexico City and Houston-Monterrey transborder markets for the carriage of Continental/ExpressJet's authorized traffic;
6. We grant exemption authority to Aeromexico, to the extent necessary, to provide scheduled foreign air transportation of persons, property, and mail between the following city-pair markets: Houston-Aguascalientes, Houston-Leon/Guanajuato, Houston-Chihuahua, Houston-Cozumel, Houston-Guadalajara, Houston-Manzanillo, Houston-Merida, Houston-Morelia, Houston-Mazatlan, Houston-Puerto Vallarta, Houston-San Jose del Cabo,

⁴ Authority granted by this notice is subject to the conditions outlined below; see also remarks, below.

Houston-San Luis Potosi, Houston-Salttillo, Houston-Tampico, Houston-Torreon, Houston-Veracruz, Houston-Ixtapa/Zihuatanejo, New York/Newark-Cozumel, and New York/Newark-San Jose del Cabo;

7. We grant to Continental and ExpressJet statements of authorization under Part 212 of the Department's regulations to display the airline code of Aeromexico on all flights operated by Continental/ExpressJet in the following transborder markets for the carriage of Aeromexico's authorized traffic: Houston-Acapulco, Houston-Aguascalientes, Houston-Cancun, Houston-Leon/Guanajuato, Houston-Chihuahua, Houston-Cozumel, Houston-Guadalajara, Houston-Manzanillo, Houston-Merida, Houston-Mexico City, Houston-Monterrey, Houston-Morelia, Houston-Mazatlan, Houston-Puerto Vallarta, Houston-San Jose del Cabo, Houston-San Luis Potosi, Houston-Salttillo, Houston-Tampico, Houston-Torreon, Houston-Veracruz, Houston-Ixtapa/Zihuatanejo, New York/Newark-Acapulco, New York/Newark-Cancun, New York/Newark-Cozumel, New York/Newark-Mexico City, New York/Newark-Puerto Vallarta, and New York/Newark-San Jose del Cabo;

8. We grant to Continental and ExpressJet, to the extent necessary, statements of authorization under Part 212 of the Department's regulations to display the airline code of Aeromexico on all flights operated by Continental/ExpressJet between Aeromexico's authorized U.S. gateways and beyond to points in Canada (for the carriage of Aeromexico's authorized beyond-U.S. traffic on a blind-sector basis);

9. We grant, to the extent necessary, special authorization to Aeromexico, under Part 216 of the Department's regulations, to provide the blind-sector service proposed between Aeromexico's authorized U.S. gateways and beyond to points in Canada (for the carriage of Aeromexico's authorized Mexico-U.S. traffic in combination with Mexico-third country traffic (no local traffic rights between the United States and Canada));

10. We defer on the request for exemption authority, along with Part 212 and Part 216 authority, for Aerolitoral (see remarks, below);

11. We defer on the request for exemption authority to Aeromexico, to the extent necessary, to provide scheduled foreign air transportation of persons, property, and mail between Houston, Texas, and Villahermosa, Mexico (see remarks, below);

12. We defer on the request for Part 212 statement of authorization to Continental and ExpressJet to display the airline code of Aeromexico on all flights operated by Continental/ExpressJet between Houston, Texas, and Villahermosa, Mexico (see remarks, below);

13. The statements of authorization granted above are effective immediately and shall remain in effect indefinitely, subject to the conditions outlined below;

14. The exemption authority granted above to Continental and ExpressJet is effective immediately for a period of two years from the date of this notice, subject to the conditions outlined below;

15. The exemption authority and special authorization (Part 216) granted above to Aeromexico is effective immediately for a period of one year from the date of this notice, subject to the conditions outlined below;

16. We dismiss the request for longer-term authority under Part 216 for Aeromexico (see remarks, below); and

17. All of the exemption authority granted by this Notice is limited to operations conducted on a code-share basis only.

**Action taken by: Paul L. Gretch, Director
Office of International Aviation**

XX The authority granted is consistent with the aviation agreement, comity and reciprocity, and/or the overall aviation relationship between the United States and the foreign countries involved.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Continental and ExpressJet's certificates of public convenience and necessity
XX Aeromexico's foreign air carrier permits
XX Standard Exemption Conditions (attached)

Additional Conditions:

The route integration authority granted to Continental/ExpressJet is subject to the following conditions:

The carriers are subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved.

Furthermore, (a) nothing in the award of the route integration authority granted should be construed as conferring upon Continental/ExpressJet rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Continental/ExpressJet notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights); (b) should there be a request by any carrier to use the limited-entry route rights that are included in Continental/ExpressJet's authority by virtue of the route integration exemption granted here, but that are not then being used by Continental/ExpressJet, the holding of such authority by route integration will not be considered as providing any preference for Continental/ExpressJet in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

The code-share operations authorized are subject to the following conditions:

- (a) The respective statements of authorizations will remain in effect only as long as (i) the subject U.S. carriers and the subject Mexican-flag carrier continue to hold the necessary underlying authority to operate the code-share services at issue, and (ii) the code-share and/or alliance agreement providing for the code-share operations remains in effect;
- (b) The subject U.S. carriers and/or the subject Mexican-flag carrier must notify the Department (Office of International Aviation, Room 6412), by letter, no later than 30 days before they begin any new beyond gateway code-share service under the blanket beyond-gateway code-share services authorized by this action. Such notice shall identify the market(s) to be served, which carrier will be operating the aircraft in the code-share market added, and the date on which the service will begin. Such notices must be filed in Docket OST-2004-16972;
- (c) The subject U.S. carriers and/or the subject Mexican-flag carrier must promptly notify the Department (Office of International Aviation) if the code-share agreement is no longer effective or if the carriers decide to cease operating all or a portion of the approved code-share services.⁵ (Such notice should be filed in Docket OST-2004-16972);
- (d) The code-sharing operations conducted under this authority must comply with 14 CFR 257 and with any amendment to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected; and the operating carrier shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition;
- (e) The authority granted here is specifically conditioned so that neither the subject U.S. carriers nor the subject Mexican-flag carrier shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

⁵ We expect this notification to be received within 10 days of such non-effectiveness or of such decision.

Remarks:Authority for Aerolitoral

In the joint application filed, the carriers state that Continental will perform an oversight review of Aerolitoral's operations and submit a copy of that certification to the Department.⁶ While this review is being completed, the applicants have orally advised the Department that they wish to proceed with that portion of the application involving services that have been reviewed (Continental/ExpressJet/Aeromexico). Under these circumstances, we will defer action on that portion of the application that involves proposed code-share services with Aerolitoral until further notice.

Term of Authority

The applicants also request, among other things, that Aeromexico be granted special authorization under Part 216 for an indefinite period. Consistent with our standard policy, we have granted the subject special authorization for a one-year period, and have dismissed the request for longer-term authority.

Deferral on Houston-Villahermosa

We have deferred, until further notice, on the applicants' request for authority to provide code-share services in the Houston-Villahermosa market pending receipt of the necessary security clearances.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicants qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the application was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, deferred, or dismissed, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

An electronic version of this document is available on the World Wide Web at:

http://dms.dot.gov/reports/reports_aviation.asp

⁶ By letter dated February 10, 2004, Continental advised the Department that Aeromexico was audited by Continental in accordance with the Foreign Code Share Safety Program approved for use by Continental and that Aeromexico met all applicable ICAO standards. And, by memorandum dated April 6, 2004, the Federal Aviation Administration (FAA) advised the Department that it had completed its review of the proposed code-share arrangement between Continental and Aeromexico and interposed no objection to the request.

U.S.-MEXICO TRANSBORDER CODE-SHARE SERVICES

**INITIALLY PROPOSED MARKETS WHERE THE “AM” CODE WILL BE PLACED ON
CONTINENTAL/EXPRESSJET FLIGHTS**

**(Both the U.S. and Mexican code-share partners already held the requisite underlying authority needed to
conduct the services proposed):**

Houston-Acapulco
Houston-Cancun
Houston-Mexico City
Houston-Monterrey
New York/Newark-Acapulco
New York/Newark-Cancun
New York/Newark-Mexico City
New York/Newark-Puerto Vallarta

**INITIALLY PROPOSED MARKETS WHERE THE “AM” CODE WILL BE PLACED ON
CONTINENTAL/EXPRESSJET FLIGHTS**

**(Continental/ExpressJet already hold the requisite underlying authority to conduct the code-share services
proposed. Aeromexico receives new underlying authority by this Notice to conduct the services proposed):**

Houston-Aguascalientes
Houston-Leon/Guanajuato
Houston-Chihuahua
Houston-Cozumel
Houston-Guadalajara
Houston-Manzanillo
Houston-Merida
Houston-Morelia
Houston-Mazatlan
Houston-Puerto Vallarta
Houston-San Jose del Cabo
Houston-San Luis Potosi
Houston-Salttillo
Houston-Tampico
Houston-Torreon
Houston-Veracruz
Houston-Ixtapa/Zihuatanejo
New York/Newark-Cozumel
New York/Newark-San Jose del Cabo

U.S.-MEXICO TRANSBORDER CODE-SHARE SERVICES

**INITIALLY PROPOSED MARKETS WHERE CONTINENTAL/EXPRESSJET/AEROMEXICO WILL
PROVIDE RECIPROCAL CODE-SHARE SERVICES**

(CO* code on Aeromexico flights and AM* code on Continental/ExpressJet flights)

**(Both the U.S. and Mexican code-share partners already hold the requisite underlying authority needed to
conduct the services proposed):**

Houston-Mexico City
Houston-Monterrey

INTRA-MEXICO CODE-SHARE SERVICES

INITIALLY PROPOSED MARKETS WHERE THE “CO” CODE WILL BE PLACED ON AEROMEXICO FLIGHTS BETWEEN CONTINENTAL/EXPRESSJET AUTHORIZED MEXICAN GATEWAYS AND:¹

Culiacan
Monclova
Hermosillo
Oaxaca
Tapachula

¹ We note that the blanket beyond-gateway code-share authority granted by this Notice is subject to the 30-day notice provision discussed in the body of this Notice. Thus, the carriers will be required to file such notice should the code-share partners decide to institute new code-share services in markets not listed here.

INTRA-U.S. CODE-SHARE SERVICES

**INITIALLY PROPOSED MARKETS WHERE THE “AM” CODE WILL BE PLACED ON
CONTINENTAL/EXPRESSJET FLIGHTS BETWEEN AEROMEXICO’S AUTHORIZED U.S. GATEWAYS AND:²**

Beaumont, TX
Houston (Ellington Field), TX
Lake Charles, LA
Brownsville, TX
Baton Rouge, LA
Harlingen, TX
McAllen, TX
Laredo, TX
Midland/Odessa, TX

² We note that the blanket beyond-gateway code-share authority granted by this Notice is subject to the 30-day notice provision discussed in the body of this Notice. Thus, the carriers will be required to file such notice should the code-share partners decide to institute new code-share services in markets not listed here.

THIRD-COUNTRY CODE-SHARE SERVICES

**INITIALLY PROPOSED MARKETS WHERE THE “AM” CODE WILL BE PLACED ON
CONTINENTAL/EXPRESSJET FLIGHTS BETWEEN AEROMEXICO’S AUTHORIZED U.S. GATEWAYS AND:³**

Quebec, Canada

³ We note that the blanket beyond-gateway code-share authority granted by this Notice is subject to the 30-day notice provision discussed in the body of this Notice. Thus, the carriers will be required to file such notice should the code-share partners decide to institute new code-share services in markets not listed here.

U.S. Carrier Exemption Conditions

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1544. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its International Principal Security Inspector (IPSI) to advise the IPSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.

Foreign Carrier Exemption Conditions

In the conduct of the operations authorized, the foreign carrier applicant(s) shall:

- (1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- (2) Comply with all applicable requirements of the Federal Aviation Administration, including, but not limited to, 14 CFR Parts 129, 91, and 36, and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1546 or 1550, as applicable. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) from a foreign airport that would be the holder's last point of departure for the United States, contact its International Principal Security Inspector (IPSI) to advise the IPSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served;
- (3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Federal Aviation Administration's Program Management Branch (AFS-260), Flight Standards Service (any changes to, or termination of, insurance also shall be filed with that office);
- (4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- (6) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are: (a) based on its operations in international air transportation that, according to the contract of carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or (b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States. In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;
- (8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;
- (9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;
- (10) If charter operations are authorized, except as otherwise provided in the applicable aviation agreement, comply with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and
- (11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code.